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| EXAMINER |
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BATTULA, PRADEEP CHOUDARY

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3725

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|---------------------------------------|---|--|
| Office Action Summary | Application No. 10/587,555 | Applicant(s) LANGERAK, ALFRED | |
| | Examiner PRADEEP C. BATTULA | Art Unit 3725 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in reply to the response filed on October 20, 2008

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 – 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schudy in view of Wong (U.S. 6,916,134).

In regards to Claim 1, Schudy discloses a storage device provided with a front cover 2 and a back cover 4 (Column 3, Lines 56 – 59; Figure 4, Items 2, 4), pivotally connected to each other and/or to a spine 3 such that by pivoting the covers, the storage device can be brought from an opened position to a closed position and vice versa (Column 3, Lines 56 – 59; Figure 4, Item 3), wherein against one of the covers and/or the spine a binder 7, is provided (Column 3, Lines 60 - 63) while adjacent two opposite ends a suspension element 19 on operating mechanism 12 is provided which is movable between a first condition in which the suspension elements extend within the storage device in closed condition and a second condition, in which they extend outside the storage device in closed condition such that the storage device can be suspended by the suspension elements (Column 4, Lines 3 – 23; Figures 1 and 2, Item 12; Column 4, Lines 63 – 65; Figures 1 & 2, Item 19). Schudy further discloses that when the binder has at least two rings for retaining sheets (Figure 1, Item 8) and suspension element 19

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on an operating mechanism 12 is pushed into the storage device the rings are unlocked but when pulled out of the storage device they are locked (Column 4, Lines 49 – 68 → Column 5, Lines 1 – 10) where a tab when pulled out interferes with the opening of the rings (Figures 1 – 3, Item 15).

Schudy does not disclose wherein the suspension elements urge the rings between an open and closed condition between movement between the first condition/pushed in and second condition/pulled out condition.

Wong teaches of a sliding mechanism with a mechanism 64 for holding the rings down (Column 2, Lines 63 – 67; Figures 4 & 5, Item 64) where when disengaged from the rings a dimple portion 54 is used to open them (Column 2, Lines 55 – 60; Figures 4 & 5, Item 64). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the sliding ring mechanism with a lock and unlocking ability of Schudy with actuating elements and ring of Wong in order to provide a sliding actuating ring mechanism where hands of a user are protect by not being required to engage the rings and accidentally get pinched (Column 1, Lines 25 – 34; the modification would be a mere addition of an additional gap farther up towards the rings and an area between the leaves for a locking lip like 15 from Schudy to catch onto one of the gaps).

In regards to Claim 2, Schudy modified by Wong further discloses a wherein the which rings are movable between an opened and a closed condition with the aid of an operating mechanism 12 (Column 4, Lines 49 – 68 → Column 5, Lines 1 – 10 - Figure 1, Item 12 of Schudy; modification with Wong teaches of the opening and closing as

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discussed in Claim 1 but the cited passage teaches of the locking and unlocking of the rings).

In regards to Claim 3, Schudy modified by Wong further discloses wherein the suspension elements form part of the operating mechanism (Figure 1, Items 12, 19 of Schudy show 19 is a part of the mechanism 12).

In regards to Claim 4, Schudy modified by Wong further discloses wherein the suspension elements are pivotable or slideable relative to at least the rings of the ring binder, between at least three positions, wherein: in a first position, the suspension elements are in the first condition and the rings are in the closed condition (Figure 4 of Wong); in a second position, the suspension elements are in the second condition and the rings are in the closed condition (Figure 2 of Schudy shows the operating mechanism fully extending and the rings are closed as discussed above); and in a third position, the suspension elements are in a third condition between the first and second condition, with the rings in the opened condition (Figure 5 of Wong) [The modification as discussed above would provides that the closed configuration being where the hinging is prevented by 64 of Wong, the third position where nothing is latched to the ring mechanism and which is taught by Figure 5 of Wong and the second position being taught by Schudy where the element is fully extended and locked by the element 15. The combination of the two references requires an extra gap area and an opening for element 15 to travel].

In regards to Claim 5, Schudy modified by Wong further discloses wherein the suspension elements in the third position interfere with at least one of the front cover,

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the back cover and the spine during pivoting of the covers, thereby preventing extend the storage device from pivoting to said in closed condition (Figures 1 & 2 – any position other than the first position will be outside the storage device – Schudy).

In regards to Claim 6, Schudy modified by Wong further discloses wherein the binder has a longitudinal direction while the suspension elements are slideable in the longitudinal direction (Figures 1 & 2 of Schudy; Figures 4 & 5 of Wong).

In regards to Claim 7, Schudy modified by Wong further discloses wherein the binder has a longitudinal direction (Longitudinal axis considered to be running along the base of the binding mechanism as seen in Figure 1 of Schudy and Figure 4 of Wong), the suspension elements being pivotal about a pivot extending approximately at right angles to said longitudinal direction (Column 5, Lines 11 – 22, 35 – 38; teaches of an operating mechanism identical to that of 12 except for the suspension element 23 [therefore interchangeable embodiments without changing structure]; Figure 3, Item 12; Figure 6, Item 23; The pivot at 22 which is at a right angle to the longitudinal direction where the suspension element 23 rotates upon as discussed in Lines 35 – 38; Figure 6, Item 22; Schudy) and including an angle with the cover and/or the spine to which the binder has been attached (Figures 4 & 6; Schudy).

In regards to Claim 8, Schudy modified by Wong further discloses wherein the ring binder has a longitudinal direction (Longitudinal axis considered to be running along the base of the binding mechanism as seen in Figure 1 of Schudy and Figure 4 of Wong), while the suspension elements are pivotal about a pivot which extends approximately at right angles to said longitudinal direction (Column 5, Lines 11 – 22, 35

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– 38; teaches of an operating mechanism identical to that of 12 except for the suspension element 23 [therefore interchangeable embodiments without changing structure]; Figure 3, Item 12; Figure 6, Item 23; The pivot at 22 which is at a right angle to the longitudinal direction where the suspension element 23 rotates upon as discussed in Lines 35 – 38; Figure 6, Item 22; Schudy), approximately parallel to the cover and/or the spine to which the binder has been attached (As discussed above the axis is running along the base and therefore would be parallel to the spine to which the binder is attached; Furthermore Figure 9 shows the binding elements can be placed on the spine; Schudy).

In regards to Claim 9, Schudy modified by Wong further discloses wherein one or each cover and/or the spine comprise an upright edge (the cover portions of Schudy have upright edges when the book is closed) such that in closed condition, the or each upright edge, the covers and the spine define a substantially closed inner space of the storage device (The inner space is **substantially** [considered to be substantial since the two largest planes are cut off and further limit access through three smaller planes] closed except the small openings in the sides and top where the covers will not meet), while passage openings are provided for the suspension elements (Openings in the side portions not closed off).

In regards to Claim 11, Schudy modified by Wong further discloses wherein the suspension elements are placed and/or formed such that with the suspension elements in the second condition, the storage device can be suspended by the suspension elements and the covers extend next to each other with the center of gravity straight

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below a connecting line through the suspension elements (Column 3, Lines 60 – 63; Column 4, Lines 49 – 63; binding mechanism is on spine along with the suspension elements and therefore center of gravity will be below suspension elements in straight line; Schudy).

Allowable Subject Matter

Claim 10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of Moy teaches of the enclosed case where the openings for the suspension elements can be closed by horizontal translation (Figures 1 & 2, 7 & 8) and a pivoting as taught in Figures 11 and 12. However, a translation of the suspension elements would cause the rings to open and close by the modification. Also a pivoting motion has been taught by Schdy with respect to the suspension element 23 but in order to access that element appropriately from the opening there must be a translation of the operating mechanism.

Response to Arguments

Applicant's arguments with respect to claims 1 - 11 have been considered but are moot in view of the new ground(s) of rejection. In light of the rejection and indicated allowable subject matter, the Examiner encourages any remarks by the Applicant.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRADEEP C. BATTULA whose telephone number is (571)272-2142. The examiner can normally be reached on Mon. - Thurs. & alternating Fri. 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C. B./
Examiner, Art Unit 3725
January 29, 2009

/Dana Ross/
Supervisory Patent Examiner, Art Unit 3725